IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 29.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal No.1034 of 2004

1. The Government of Tamilnadu rep.
   By its Secretary to Govt.,
   Adi Dravidar Welfare Department
   Fort St.George, Chennai 9.

2. The District Collector,
   Villupuram district

3. The Special Tahsildar
   (Adi Dravidar Welfare)
   Ulundurpet
   Villupuram district ... Appellants/Respondents

Vs.

E.M.Subramania Reddiar .. Respondent/Petitioner

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 13.03.2002 made in W.P.No.10716 of 2001 petition presented under Article 226 of the Constitution of India to issue a writ of Mandamus directing the Respondents to pay interest at the rate of 12% per annum from 30.3.1985 to 13.2.2001 on Rs.1,75,828/75 being the award amount in Award No. 2/84-85 dated 30.3.1985 on the file of the third respondent.

For Appellants : Mr.C.Thirumaran, Spl.G.P.
For Respondent : Mr.R.Asokan

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal has been filed against the order of the learned Single Judge dated 13.03.2002 made in W.P.No.10716 of 2001 in and by which the learned Single Judge directed the respondents therein for payment of interest at the rate of 9% per annum from 30.3.1985 to 13.2.2001 in respect of the award amount in Award No.2/84-85 dated 30.3.1985.

2. Heard learned counsel appearing for the appellants as well as respondent.

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3. The only point for consideration in this appeal is whether the learned Judge is justified in directing the Government to pay interest for the award amount at the rate of 9% per annum.

4. It is not in dispute that as per Section 12(2) of the Land Acquisition Act, 1894, it is mandatory on the part of the Collector to give minimum notice of his award to all the persons interested who are not present personally or by their relatives, when the award is made. The proceedings of the award dated 30.3.1985 is available in the typed set filed by the appellants. In clause 4, the Land Acquisition Officer and the Special Tahsildar, ADW, 3rd appellant herein has specically stated that "the land owners have neither appeared for award enquiry nor sent any written representation". Likewise in Clause 9, it is stated that "no land owner has appeared for enquiry and claim for enhanced compensation". In the penultimate paragraph, the Land Acquisition Officer after recording the absence of the land owner and after passing the award has directed that the amount ordered to be kept under deposit.

5. Though learned Government Advocate basing reliance on the records contended that the award amount had been deposited in the revenue account on 30.3.1985. It is not in dispute that there was no notice or intimation of the same to the land owners in terms of Sub Section 2 of Section 12 of the Land Acquisition Act. In fact, only after filing of Contempt Petition in this Court, the amount has been paid on 13.2.2001. This is evident from paragraph 3 of the order of the learned Single Judge. In view of the fact that the respondent/land owner did not appear in the award enquiry, in the absence of proof for compliance of notice/intimation of passing of the award under Sub Section 2 of Section 12 of the Act, Section 34 mandates the Collector to pay interest at the rate of 9% per annum. All these aspects have been correctly considered by the learned Judge and after finding that the award amount was paid to the land owner only on 13.2.2001, the learned Judge ordered interest at the rate of 9% per annum from the date of the award dated 30.3.1985. We are in agreement with the said conclusion and unable to accept the argument of the learned Government Pleader. Accordingly, the writ appeal fails and the same is dismissed. No costs.

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Asst. Registrar.

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Sub Asst. Registrar.

ajr

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To

1. The Secretary to Govt.,
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   Fort St.George, Chennai 9.

2. The District Collector,
   Villupuram district

3. The Special Tahsildar
   (Adi Dravidar Welfare)
   Ulundurpet
   Villupuram district

1 cc to Mr.R.Asokan, Advocate, Sr. 27902
1 cc to Govt. Pleader, Sr. 27812

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